

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

TYLER KLIEGL,

Plaintiff,

v.

MARTIN O'MALLEY, Commissioner of  
Social Security,

Defendant.

**8:23CV359**

**ORDER**

On August 11, 2023, plaintiff Tyler Kliegl ("Kliegl") brought this action (Filing No. 1) against then-Acting Commissioner of Social Security Kilolo Kijakazi<sup>1</sup> seeking a reversal of the denial of his request for disability benefits. Now before the Court is the Commissioner's Unopposed Motion to Reverse and Remand pursuant to Sentence Four of 42 U.S.C. § 405(g) (Filing No. 16). The Commissioner asks the Court to enter judgment (1) reversing the final decision in Kliegl's administrative case and (2) remanding the matter to "offer [Kliegl] the opportunity for a hearing and" to issue a new decision. *See* 42 U.S.C. § 405(g) ("The court shall have power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Commissioner of Social Security, with or without remanding the cause for a rehearing."); *Melkonyan v. Sullivan*, 501 U.S. 89, 97-102 (1991) (describing the district courts' differing authority under sentence four and sentence six of § 405(g) to remand a social-security action).

The Commissioner's motion requests the same relief sought by Kliegl's Complaint, which asks this Court to reverse the Commissioner's decision and "remand this matter for

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<sup>1</sup>On December 20, 2023, Martin O'Malley (the "Commissioner") became the Commissioner of Social Security. The Court has substituted him as the defendant in this matter as requested by the Commissioner (Filing No. 17). *See* Fed. R. Civ. P. 25(d).

further proceedings.” Because both parties believe the administrative record should be further developed to adequately determine Kliegl’s qualification for disability benefits, the Court finds reversal and remand pursuant to its authority under sentence four of § 405(g) is proper. *See Sullivan v. Finkelstein*, 496 U.S. 617, 625-26 (1990) (explaining that a sentence four remand can be ordered for various reasons, including to expand on an insufficient administrative record, while a remand pursuant to sentence six is appropriate where “the district court learns of [new] evidence”). Accordingly,

IT IS ORDERED:

1. The Commissioner’s Unopposed Motion to Reverse and Remand pursuant to Sentence Four of 42 U.S.C. § 405(g) (Filing No. 16) is granted.
2. The Commissioner’s final decision is reversed, and this case is remanded for further administrative proceedings.
3. Plaintiff Tyler Kliegl’s pending Motion for an Order Reversing the Commissioner’s Decision (Filing. No. 11) is denied as moot.
4. A separate judgment will issue.

Dated this 4th day of January 2024.

BY THE COURT:



Robert F. Rossiter, Jr.  
Chief United States District Judge